IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 26655 of 2007(W)

OS.11/2002 of SUB COURT, OTTAPPALAM

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PETITIONER:

FAROOQ,S/O.KUNHIMOIDU,
THEVATHUVALAPPIL,POST
NELLIKKATTIRI, KOOTTANADU,
NELLIKATTIRI DESOM,OTTAPALAM TALUK.

BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI

RESPONDENTS:

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1. ABDUL RAHIMAN @ ABDUL RAHIMANKUTTY,
S/O. KUNHIMON,KOTTILINGAL HOUSE,
THAIKKAD POST, GURUVAYUR,THRISSUR DISTRICT.

2. CHANANATH HAMZA,S/O. JAMAL,
PERINGANNUR AMSOM,VELLADIKUNNU DESOM,
OTTAPALAM TALUK.

3. ELAYADATH IBRAHIM,S/O.MOHAMMED SHAH,
EZHUVATHALA AMSOM,PATTISSERI DESOM,
OTTAPALAM TALUK.

4. MOHAMMED MUSALIAR,S/O. VETTIKKAD
HAMMED, MOOVATTUPUZHA VILLAGE,
RANDARKKARA DESOM, MOOVATTUPUZHA TALUK.

5. ABDUL SAMAD,S/O. CHAKKAMDAYATH KUNHALI
MUHAMMED, VADAKKUMMURY VILLAGE,
PERINGODE DESOM,THRISSUR TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.26655 of 2007

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Dated this the 7th day of September, 2007.

JUDGMENT

This Writ Petition is filed for a direction to the Subordinate Judge, Ottapalam to dispense with the arrest of the petitioner for the non-production of documents in O.S.No.11 of of 2002 and for other reliefs. A perusal of Ext.P1 kaichit would reveal that the present writ petitioner has taken six documents on kaichit with an undertaking to produce it as and when directed by the court. He has also undertaken that in the event of failure to do so, he is ready to suffer any punishment imposed on him. Section 145 of C.P.C. makes necessary guarantee for the same.

2. Now the contention of the writ petitioner is that he has ceased to be the Manager of the said organisation and the documents are really in the possession of defendants 4 to 7 and therefore he should not be arrested. Suppose the documents had been handed over to defendants 4 to 7 and if it is proved that

they are in possession, just by reason of Ext.P1, it may not be correct to blame the writ petitioner. Therefore, an opportunity has to be given to the writ petitioner to put forth his contention. Therefore, I direct the writ petitioner to appear before the court below and give necessary explanation and the court, after hearing him and the other parties including defendants 4 to 7, pass appropriate orders. Till that time, the Subordinate Judge, Ottapalam is directed not to order arrest of the writ petitioner.

Writ Petition is disposed of as above.

M.N.Krishnan,
Judge.

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